IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

REVIEW PETITION ST.NO.22905 OF 2005

IN

FIRST APPEAL NO.431 OF 1992

Kashinath Tanaji pawar : Applicant

versus

State of Maharashtra : Respondent.

Mr.S.A.Rajeshirke for the applicant.

Mr.Sujay Gawade, APP, for the State.

CORAM : D.G.DESHPANDE

DATED : FEBRUARY 28, 2007.

P.C. (IN CHAMBER).

1. Heard the learned advocate for the applicant and the learned APP for the State. This review petition is filed by the applicant/claimant in respect of my order dated 31st March 2005 in First Appeal No.431 of 1992 arising out of Land Reference No.83 of 1984. By

the said order the appeal of the State was partly allowed by me and the compensation granted was reduced. Thereafter this review petition is taken out by the claimant on the ground that the another appeal vide First Appeal No.1095 of 1992 filed by the State was decided by the Division Bench of Justice S.M.Daud and Justice M.G.Choudhari and it was dismissed on merit and, there was not change in the compensation granted.

2. The learned advocate for the claimant makes a statement, and is accepted across the Bar, that this First Appeal No.1095 of 1992 and the appeal of the State decided me i.e. First Appeal No.431 of 1992 were arising out of the same Award in respect of the area situated within the same village and the lands involved in both the appeals are adjacent to each other and covered by same notification and, therefore, if the appeal of the State being First Appeal No.1095 of 1992 was dismissed and rejected by the Division Bench, then my order dated 31st March 2005 allowing First Appeal No.431 of 1992 partly has to be set aside.

3. Admittedly, when First Appeal No.431 of

1992 was decided by me, it was not brought to my notice that any such order was passed by the Division Bench in First Appeal No.1095 of 1992. This is, therefore, a case where review is maintainable. Therefore, this Review Petition is required to be allowed. Hence I pass the following order :-

:ORDER:

. Review Petition is allowed.

Order dated 31st March 2005 in First Appeal No.431 of 1992 is set aside.

First No.431 of 1992, filed by the State, is dismissed.

No order as to costs.

[D.G.DESHPANDE,J]